

SUPREME COURT OF INDIA

Diljit Singh Bedi

Vs.

Shiromani Gurudwara Prabhandhak

C.A.No.3848 of 2011

(R.V. Raveendran and A.K. Patnaik,JJ.,)

03.05.2011

JUDGMENT

SLP.(Civil)No.17410 of 2008

A.K.Patnaik,J.,

1. Delay condoned in filing rejoinder affidavit.
2. Leave granted.
3. This is an appeal against the order dated 03.04.2008 of the High Court of Punjab and Haryana dismissing the writ petition CWP No.5587 of 2008 of the appellant challenging his termination from service under the Shiromani Gurudwara Prabhandhak Committee (for short 'the SGPC').
4. The relevant facts very briefly are that the appellant was working as an Assistant Secretary of the SGPC at Amritsar when a news item was published in the local dailies in November 2007 with some photographs of the appellant with a woman in embarrassing positions. The SGPC constituted a Sub-Committee to hold an inquiry against the appellant and the appellant was asked to appear before the Sub-Committee on 22.11.2007 at 10.00 A.M. in the Meeting House, Sri Guru Nanak Niwas, Sri Amritsar. The appellant submitted his explanation that the photographs were that of himself and his wife and he did not know how someone has taken these from his bedroom. The Sub-Committee accepted the explanation of the appellant and submitted an inquiry report dated 01.12.2007 recommending that the appellant be reinstated in his post. On the basis of the inquiry report of the Sub-Committee, the Executive Committee of the SGPC in its meeting on 01.01.2008 resolved to reinstate the appellant in service. On 04.01.2008, however, the appellant submitted his resignation and the resignation was accepted by the President of the SGPC by order dated 04.01.2008. The appellant then made a representation complaining that his resignation was obtained by coercion and misrepresentation and by order dated 28.02.2008 issued by the Secretary of the SGPC, the

order dated 04.01.2008 of the President of the SGPC accepting the resignation of the appellant was cancelled and the appellant was relieved from service on the ground that the resolution of the Executive Committee adopted on 01.01.2008 to reinstate the appellant in service was not confirmed by the Executive Committee in the meeting on 18.02.2008. Aggrieved by the order dated 28.02.2008 issued by the Secretary, SGPC, relieving the appellant from service, the appellant filed writ petition, CWP No.5587 of 2008, before the High Court. By the impugned order dated 03.04.2008, the High Court dismissed the writ petition after holding that the appellant had not only defamed the SGPC but also brought a bad name to the entire community and the order dated 28.02.2008 relieving the appellant from service had been rightly passed.

5. Learned counsel for the appellant submitted that the woman, who was with the appellant in the photographs, was appellant's wife and the inquiry report submitted by the Sub-Committee would show that the explanation of the appellant that the concerned woman was his wife had been accepted and on the basis of the inquiry report submitted by the Sub-Committee the appellant had been fully exonerated and reinstated in service by the Executive Committee of the SGPC by the resolution dated 01.01.2008. He further submitted that the order dated 04.01.2008 of the President of the SGPC accepting the resignation of the appellant had also been cancelled pursuant to the representation of the appellant that the resignation had been obtained from the appellant by coercion and misrepresentation. He argued that the Executive Committee of the SGPC had actually dismissed the appellant from service for alleged misconduct by resolution dated 18.02.2008 without any finding in any inquiry that the appellant was guilty of such misconduct.

6. Learned counsel for the respondent, on the other hand, submitted relying on the reply filed by the respondent that the appellant had in fact tendered his resignation from his post on 04.01.2008. He referred to the resignation dated 04.01.2008 of the appellant annexed to the reply as Annexure R-2 to show that he had resigned from the post with a view to ensure that the image of the Shiromani Gurudwara Prabandhak was not sullied. He submitted that the President of the SGPC accepted the resignation of the appellant on 04.01.2008 after deducting a month's pay in lieu of notice with effect from 04.01.2008 according to rules and this would be evident from the order dated 04.01.2008, copy of which has been annexed to the reply as Annexure R-3. He submitted that under the Sikh Gurudwaras Act, 1925 (for short 'the Act'), and in particular Section 69 thereof, the Executive Committee of the SGPC has the power to appoint and punish the employees of the SGPC and in exercise of this power the Executive Committee of the SGPC resolved to terminate the services of the appellant by resolution adopted on 18.02.2008. He submitted that the High Court has therefore rightly sustained the order of termination of the services of the appellant and this is not a fit case in which this Court should in exercise of its power under Article 136 of the Constitution interfere with the impugned order passed by the High Court.

7. The first question which we are called upon to decide in this case is whether the appellant had resigned from the post of Assistant Secretary of the SGPC or whether his services were terminated by the Executive Committee of the SGPC. It appears from Annexure R-2 annexed to the reply of the respondent that on 04.01.2008 the appellant had submitted his resignation

to the President of the SGPC and it further appears from the Annexure R-3 annexed to the reply of the respondent that the resignation of the appellant had been accepted by the President of the SGPC, but on 28.02.2008 the Secretary of the SGPC issued an order stating that the Executive Committee of the SGPC in its resolution no. 173 dated 18.02.2008 cancelled the order dated 04.01.2008 of the President accepting the resignation of the appellant. The order dated 28.02.2008 of the Secretary of the SGPC extracted hereinbelow:-

"SHIROMANI GURDWARA PARBANDHAK COMMITTEE SRI AMRITSAR Copy of Office Order No.4073 dated 28.02.2008 Executive Committee vide its Resolution No.173 dated 18.02.2008 while not confirming the Resolution No.130 dated 01.01.2008 of reinstating in service Sh. Diljit Singh, Assistant Secretary under suspension (s/o Lal Singh) Publishing Department, Shiromani Committee has instead relieved him from service and has cancelled office order No.3465 dated 4.1.2008 vide which the President had accepted his resignation. Therefore he should be considered as relived from service S/d Secretary, Shiromani Gurdwara Parbandhak Committee Sri Amritsar"

Only the Executive Committee of the SGPC has the statutory power under Section 69 of the Act, to remove any employee of the SGPC. Therefore the acceptance of the resignation of the appellant by the President of the SGPC is of no legal consequence. Moreover, the fact remains that the Executive Committee of the SGPC has cancelled the order dated 04.01.2008 of the President of the SGPC accepting the resignation of the appellant and has instead relieved the appellant from service. We are thus of the considered opinion that this was not a case of resignation from service by the appellant but of termination of service of the appellant by the Executive Committee of the SGPC.

8. The second question which we have to decide in this case is whether the termination of service of the appellant by the Executive Committee of the SGPC by resolution dated 18.02.2008 was legally valid. The order dated 28.02.2008 issued by the Secretary, SGPC quoted above does not state the reasons for the decision of the Executive Committee taken in the meeting held on 18.02.2008 to relieve the appellant from service. No counter affidavit was filed by the SGPC before the High Court in reply to the writ petition. It appears from the impugned order that the writ petition was dismissed in limine by the High Court after the counsel for the SGPC placed before the High Court the cuttings of the local dailies 'Punjab Kesari' and 'Jag Bani' both of 04.01.2008 containing photographs of the appellant in embarrassing positions with a woman. In the reply filed in this Court, the SGPC has stated in para 5 that the appellant was working on an important post of Assistant Secretary of the SGPC and was supposed to maintain highest standards and that the High Court has therefore correctly passed the order maintaining the termination of the appellant. In para 6 of the reply, the respondent has further stated that since the appellant has himself admitted his guilt in the writ petition filed by him, he cannot claim any violation of his right to natural justice and no prejudice has been caused to him. From these facts, it is clear that the appellant was terminated from service by way of punishment for allegations of misconduct. Hence, this is not a case of termination simpliciter but a dismissal for misconduct.

9. The Executive Committee of the SGPC has in exercise of its powers under the Act framed the Service Rules for the employees of the SGPC prescribing their service conditions which include their appointment and removal from service. Rule 4 of the Service Rules, which relates to dismissal from service, is quoted in Mewa Singh and others v. Shiromani Gurdwara Prabandhak Committee [(1999) 2 SCC 60] at page 64 and is reproduced hereinbelow:

"4. Dismissal:- (a) The employee can be dismissed in accordance with the below-mentioned rule by this appointment authority, but appeal against the dismissal by the President shall lie to the Executive Committee within 30 days from the date of dismissal.

(b) Any employee under the control of management of any department of the Gurdwara under the Shiromani Gurdwara Prabandhak Committee may prefer an appeal against any punishment of suspension, dismissal, fine, warning, etc. within 30 days from the date of issuance of the order:

(i) any employee of the Shiromani committee can be dismissed or degraded for his bad character, dishonesty, drinking or becoming a `patit' but before he is dismissed or degraded, the allegations in the form of a written charge-sheet shall be supplied to him along with the statement of allegations on the basis of which the charges are leveled against him. Representation against these charges shall be received from the employee within a reasonable time and in case he denies these charges or prays for holding an enquiry or the Executive Committee deems it fit, these charges shall be got enquired into in the presence of the employee and for each item of the charge-sheet which has not been admitted, evidence shall be recorded in his presence and the employee shall be entitled to cross-examine these witnesses. In case an employee wishes to produce his defence, the same shall be entertained, but in case if the Enquiry Committee feels that certain evidence is not necessary, it shall not be permitted to be produced for the reasons to be recorded in writing. Action shall be taken against the employees only when the charge is established.

(ii) In case the employees wish to produce any record or document in their defence, he shall be permitted to do so and if he asks for the copies of these documents, the same shall be supplied to him without any objection and he shall be permitted to inspect the record free of cost.

(iii) Every employee who has been dismissed or degraded or removed shall be supplied with the copies of the report of the Enquiry Committee and also the final decision of the Executive Committee free of cost.

(iv) (a) The record pertaining to the dismissal or degradation of an employee shall not be destroyed for three years, rather it shall be kept in safe custody.

(b) If an employee is reinstated on exoneration after his suspension, he shall be entitled to the arrears of salary of the suspension period."

10. We find on a reading of Rule 4 of the Service Rules that an employee of the SGPC can be dismissed from service for bad character only after the charges of misconduct are established in an inquiry conducted by an inquiry committee. Thus, though the Executive Committee of the SGPC may have the power under Section 69 of the Act and the Rules made thereunder to terminate the services of any employee of the SGPC, it can terminate the services of any employee for misconduct, only when such misconduct is established in an inquiry. It appears from the inquiry report dated 01.12.2007 of the Sub-Committee constituted by the Executive Committee of the SGPC that the Sub-Committee had accepted the explanation of the appellant that the photographs which were published in the local newspapers were of his wife. Thus, without a finding in an inquiry that the appellant was guilty of conduct which had defamed the SGPC, the High Court could not have taken a view in the impugned order that the appellant had brought a bad name to the SGPC and he had been rightly relieved from service.

11. The order dated 28.02.2008 issued by the Secretary of the SGPC terminating the services of the appellant is therefore not legally valid and is accordingly quashed. The impugned order of the High Court is set aside. The writ petition and this appeal are allowed. The appellant will be forthwith reinstated in service. On the facts and circumstances, particularly having regard to the fact that the appellant had offered to resign on 04.01.2008, the appellant will not be entitled to any backwages. There shall be no order as to costs.